

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

S.J.W and S.W.W.)
By and Through Their Parents, Brian Wilson)
and Linda Wilson)
Plaintiffs,)
v.) Case No. 12-00285-CV-W-HFS
)
LEE'S SUMMIT R-7 SCHOOL DISTRICT,
et al.)
Defendants.)

SECOND MEMORANDUM TO COUNSEL

Without suggesting a solution to the immediate issue of plaintiffs' return to school, it may be useful to reemphasize my interest in the equities pertaining to a return to school in the middle of the suspension period, after significant penal action has already occurred. I am interested in any showing about the attitude of the alleged victims of the messages - - apparently several women or girls and the African American students at the high school. It would clearly be helpful to a return, either by School Board action or as a factor in judicial intervention, if there were positive indications that the victims would welcome or acquiesce in plaintiffs' return after a significant suspension, given their understanding that the offensive racial messages (at least) were not composed or knowingly publicized by plaintiffs.

I recognize that using a "heckler's veto" is probably against public policy but am unaware of whether something like a "victim's veto" may be an appropriate issue. At sentencing for criminal conduct, for example, the attitude of victims, if reported, is sometimes taken into account.

If this is an issue worth pursuing, I would suppose that affidavits, signed petitions and the like, could be considered as a factor by me and/or the School Board, without requiring witness testimony.

/s/ Howard F. Sachs
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

March 14, 2012

Kansas City, Missouri